

10 MAGDALENA ZAMORA,
11 Plaintiff,
12 v.
13 CAROLYN COLVIN,
14 Defendant.

7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA

10 Case No.15-cv-01292-NC

11
12 **ORDER DENYING PLAINTIFF'S
13 MOTION FOR SUMMARY
14 JUDGMENT; GRANTING
15 DEFENDANT'S MOTION FOR
16 SUMMARY JUDGMENT**

17 Re: Dkt. Nos. 15, 16

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24 In this social security disability case, claimant Magdalena Zamora seeks review of
the Commissioner's determination that she is not disabled. Zamora claims she is disabled
because she has carpal tunnel, diabetes, and suffers from depression. Zamora argues that
the ALJ's conclusion is erroneous because the ALJ improperly assessed the severity of her
symptoms, and improperly weighed the opinions of various psychologists. Having
reviewed the record as a whole, the Court concludes that the ALJ did not commit legal
error, and that her determination was supported by substantial evidence in the record. As a
result, the Court DENIES Zamora's motion for summary judgment and GRANTS the
Commissioner's motion for summary judgment.

25 **I. BACKGROUND**

26 Magdalena Zamora alleges disability beginning September 28, 2011. Zamora is
27 fifty years old, and has an eighth grade education. A.R. 59. Zamora lives with her two
28 minor children and the children's father. A.R. 62. She also has an adult child. A.R. 62.

Case No. 15-cv-01292-NC

Zamora's last job was in 2000, when she worked in computer assembly. A.R. 53. Prior to that, she worked as a cashier part-time for five years. A.R. 55.

On October 7, 2011, Zamora protectively filed an application for disability insurance benefits and supplemental security income. A.R. 29. The claims were denied on February 6, 2012, and upon reconsideration on November 21, 2012. A.R. 95, 201. Zamora requested a hearing with an administrative law judge (“ALJ”), which was held on August 6, 2013. A.R. 29. Zamora was present at the hearing and testified.

At step one, the ALJ found that Zamora had not engaged in substantial gainful activity. A.R. 31. At step two, the ALJ found that Zamora has the following severe impairments: carpal tunnel syndrome of the bilateral wrists with trigger digits, status post surgeries for bilateral carpal tunnel and third digit release; diabetes mellitus, type II, with neuropathy of the feet; obesity; and major depressive disorder. A.R. 31. The ALJ considered Zamora's recent abdominal pain and pelvic pain, but determined that those impairments did not meet the criteria for severe because they were not both significant and durational. A.R. 32. Additionally, the ALJ considered Zamora's fourth digit carpal tunnel condition, and noted that Zamora did not seek appropriate treatment, so the ALJ did not classify this impairment as severe. A.R. 32. However, the ALJ noted that she would consider the impairment in combination with all medically determinable impairments. A.R. 32.

At step three, the ALJ determined that Zamora's impairments do not meet the criteria listed in 20 C.F.R. Part 404, subpart P, Appendix 1. A.R. 33. The ALJ considered Zamora's mental impairments and found them not to meet the criteria for affective disorders. A.R. 33. The ALJ concluded that Zamora has mild restriction in activities of daily living, moderate difficulties in social functioning, moderate difficulties in concentration, persistence or pace, and no episodes of decompensation. A.R. 33-34.

The ALJ found that Zamora has the residual functional capacity to perform sedentary work, except that she can frequently perform all postural functions, but can never climb ladders, ropes, or scaffolds. A.R. 34. Zamora is also limited to no more than

1 frequent handling, fingering, and feeling. A.R. 34. She must avoid exposure to extreme
2 heat or extreme cold, avoid concentrated exposure to vibration, and avoid concentrated
3 exposure to hazards. A.R. 34. The ALJ concluded that Zamora has no significant
4 limitation in the ability to understand, remember, and carry out unskilled work that
5 involves no more than routine and superficial interaction with the public. A.R. 34.

6 In coming to this conclusion, the ALJ determined that Zamora had the impairments
7 listed above, but that her testimony as to her functional limitations was not entirely
8 credible. A.R. 35. The ALJ noted that Zamora's treatment history was inconsistent with
9 the level of impairment she claims. A.R. 35. Additionally, the ALJ found that Zamora
10 performs a wide range of activities of daily living, such as preparing basic meals, cleaning,
11 laundering clothes, and grocery shopping. A.R. 35. The ALJ found Zamora's testimony
12 that her social functioning is significantly reduced to be not credible because Zamora's
13 history reflects that Zamora has normal relationships with her minor children and is their
14 primary caregiver. A.R. 35.

15 As to the medical opinions in the record, the ALJ rejected part of the opinion of Dr.
16 Lingamneri, Zamora's treating physician. A.R. 36. The ALJ noted that Dr. Lingamneri's
17 opinion was overly reliant on Zamora's subjective complaints and inconsistent with her
18 own treatment records. A.R. 37. For example, Dr. Lingamneri diagnosed Zamora with a
19 menstrual disorder since March 2013, based on Zamora's subjective complaints, but did
20 not refer Zamora to a gynecologist. A.R. 37. After listing further examples of
21 inconsistencies with the record, the ALJ noted, "To the extent 'acceptable medical
22 sources,' such as Dr. Lingamneri, offer opinions, they have been considered and generally
23 given significant weight when consistent with the treating relationship between those
24 sources and the claimant, underlying treatment records, treatment course, other probative
25 opinions, and records evidence as a whole." A.R. 38.

26 In considering Zamora's mental health limitations, the ALJ gave great weight to the
27 opinion of Dr. Dixit, a consultive examiner, who opined that Zamora would have mild to
28 moderate difficulty performing complex and detailed tasks, as well as mild to moderate

1 difficulty working with the public, supervisors, and coworkers. A.R. 38. The ALJ gave
2 this opinion significant weight because it was generally consistent with the mental health
3 records, such as those from Dr. Le, Zamora's treating psychiatrist. A.R. 38. Additionally,
4 the ALJ gave great weight to the opinion of Dr. Katzenberg, an examining physician who
5 opined that Zamora could lift five to ten pounds occasionally, stand or walk for one to two
6 hours in an eight-hour work day, and sit without limitation in an eight-hour work day.
7 A.R. 39. The ALJ gave little weight to the opinion of an examining physician, Dr. Patty,
8 because it was inconsistent with Dr. Dixit's opinion and Zamora's mental health records.
9 A.R. 39.

10 At step four, the ALJ concluded that Zamora is unable to perform any past relevant
11 work. A.R. 40. At step five, the ALJ considered the testimony of a vocational expert, and
12 concluded that Zamora could perform work as a (1) shade assembler, with 3,200 positions
13 in California; (2) hand packer, with 2,900 positions available in California; (3) nut sorter,
14 with 1,400 positions available in California. A.R. 41-42. Thus, the ALJ determined that
15 Zamora was not disabled. A.R. 42.

16 On September 20, 2013, Zamora appealed the ALJ's decision. A.R. 24. On
17 February 4, 2015, the Appeals Council denied Zamora's appeal, making the decision of the
18 ALJ the final decision of the Commissioner. A.R. 1. All parties have consented to the
19 jurisdiction of a magistrate judge. Dkt. Nos. 3, 11.

20 **II. LEGAL STANDARD**

21 A district court has the "power to enter, upon the pleadings and transcript of the
22 record, a judgment affirming, modifying, or reversing the decision of the Commissioner of
23 Social Security, with or without remanding the case for a rehearing." 42 U.S.C. § 405(g).

24 The decision of the Commissioner should only be disturbed if it is not supported by
25 substantial evidence or if it is based on legal error. *Burch v. Barnhart*, 400 F.3d 676, 679
26 (9th Cir. 2005). Substantial evidence is evidence that a reasonable mind would accept as
27 adequate to support the conclusion. *Bayliss v. Barnhart*, 427 F.3d 1211, 1214 n.1 (9th Cir.
28 2005) ("[It] is more than a mere scintilla but less than a preponderance."). Where evidence

1 is susceptible to more than one rational interpretation, the ALJ's decision should be
2 upheld. *Andrews v. Shalala*, 53 F.3d 1035, 1039-40 (9th Cir. 1995).

3 **III. DISCUSSION**

4 Zamora argues that the ALJ made the following legal errors: (A) the ALJ did not
5 properly find Zamora's diagnoses as severe; (B) improperly discredited Zamora's
6 testimony; and (C) the ALJ improperly rejected physician testimony. As a result, Zamora
7 argues that the ALJ's opinion is not supported by substantial evidence, and the ALJ's
8 conclusion that Zamora could perform light sedentary work is inaccurate.

9 **A. Severity of Zamora's Symptoms**

10 Zamora first argues that the ALJ did not consider some of her symptoms as
11 "severe," such as Zamora's fourth finger trigger finger problems, citing *Smolen v. Chater*,
12 80 F.3d 1273, 1289-90 (9th Cir. 1996). Dkt. No. 15 at 9.

13 According to *Smolen*, the ALJ must engage in a two-step inquiry in examining the
14 severity of an impairment. *Id.* First, the ALJ must examine each impairment. "An
15 impairment is not severe if it does not significantly limit [the claimant's] physical ability to
16 do basic work activities." 20 C.F.R. §§ 404.1520(c), 404.1521(a). Basic work activities
17 are "abilities and aptitudes necessary to do most jobs, including, for example, walking,
18 standing, sitting, lifting, pushing, pulling, reaching, carrying or handling." 20 C.F.R. §
19 140.1521(b). Second, "the ALJ must consider the combined effect of all of the claimant's
20 impairments on her ability to function, without regard to whether each alone was
21 sufficiently severe" and consider the claimant's subjective symptoms, such as pain or
22 fatigue. *Smolen*, 80 F.3d 1273, 1289-90 (9th Cir. 1996).

23 Here, the ALJ considered Zamora's fourth digit carpal tunnel condition, and noted
24 that Zamora did not seek appropriate treatment, so the ALJ did not classify this impairment
25 as severe. A.R. 32. However, the ALJ noted that she would consider the impairment in
26 combination with all medically determinable impairments. A.R. 32. The Court finds that
27 the ALJ did follow the appropriate process and set forth legitimate reasons for determining
28 that certain impairments were not severe. Ultimately, the ALJ considered all of Zamora's

1 impairments in making her disability determination.

2 **B. ALJ's Credibility Determination**

3 Zamora also argues that in determining the severity of her symptoms, the ALJ
4 improperly discredited Zamora's subjective testimony. To "determine whether a
5 claimant's testimony regarding subjective pain or symptoms is credible," an ALJ must use
6 a "two-step analysis." *Garrison v. Colvin*, 759 F.3d 995, 1014 (9th Cir. 2014). "First, the
7 ALJ must determine whether the claimant has presented objective medical evidence of an
8 underlying impairment which could reasonably be expected to produce the pain or other
9 symptoms alleged." *Lingenfelter v. Astrue*, 504 F.3d 1028, 1036 (9th Cir. 2007) (internal
10 quotations omitted). "Second, if the claimant meets the first test, and there is no evidence
11 of malingering, the ALJ can reject the claimant's testimony about the severity of her
12 symptoms only by offering specific, clear and convincing reasons for doing so." *Id.* "In
13 weighing a claimant's credibility, the ALJ may consider his reputation for truthfulness,
14 inconsistencies either in his testimony or between his testimony and his conduct, his daily
15 activities, his work record, and testimony from physicians and third parties concerning the
16 nature, severity, and effects of the symptoms of which he complains." *Light v. Soc. Sec.*
17 *Admin.*, 119 F.3d 789, 792 (9th Cir. 1997).

18 Here, the ALJ noted that Zamora's treatment history was inconsistent with the level
19 of impairment she claims. A.R. 35. Additionally, the ALJ found that Zamora performs a
20 wide range of activities of daily living, such as preparing basic meals, cleaning, laundering
21 clothes, and grocery shopping. A.R. 35. The ALJ found Zamora's testimony that her
22 social functioning is significantly reduced to be not credible because Zamora's history
23 reflects that Zamora has normal relationships with her minor children and is their primary
24 caregiver. A.R. 35. The Court finds that the ALJ has set forth specific, clear and
25 convincing reasons for rejecting Zamora's testimony.

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1 **C. ALJ's Rejection of Medical Opinions**

2 Next, Zamora argues that the ALJ improperly rejected Dr. Lingamneri's opinion,
3 and that the ALJ "incorrectly rejected the opinions of every psychiatrist or psychologist
4 who actually examined Ms. Zamora." Dkt. No. 15 at 12.

5 In social security disability cases, "[t]he ALJ must consider all medical opinion
6 evidence." *Tommasetti v. Astrue*, 533 F.3d 1035, 1041 (9th Cir. 2008). Generally, "the
7 opinion of an examining physician is entitled to greater weight than the opinion of a
8 nonexamining physician." *Ryan v. Comm'r of Soc. Sec.*, 528 F.3d 1194, 1198 (9th Cir.
9 2008). "Even if contradicted by another doctor, the opinion of an examining doctor can be
10 rejected only for specific and legitimate reasons that are supported by substantial evidence
11 in the record." *Regennitter v. Comm'r of Soc. Sec. Admin.*, 166 F.3d 1294, 1298-99 (9th
12 Cir. 1999). The Commissioner must provide "clear and convincing" reasons for rejecting
13 the un-contradicted opinion of a treating physician. *Pitzer v. Sullivan*, 908 F.2d 502, 506
14 (9th Cir. 1990). "The ALJ can meet this burden by setting out a detailed and thorough
15 summary of the facts and conflicting medical evidence, stating [her] interpretation thereof,
16 and making findings." *Thomas v. Barnhart*, 278 F.3d 947, 957 (9th Cir. 2002).

17 The Court has summarized the ALJ's evaluation of the medical evidence in the
18 background section above. The Court finds that, contrary to Zamora's assertion, the ALJ
19 did not reject the opinion of all treating psychologists. Instead, the ALJ considered all of
20 the medical evidence in the record, much of which was conflicting, and resolved the
21 conflicts by setting out a "detailed and thorough summary of the facts" and stating her
22 opinion thereof. The ALJ considered the opinion of each treating and examining source,
23 summarized the physician's conclusions, then thoroughly explained which opinions she
24 rejected and why. The Court notes, "[w]here evidence is susceptible to more than one
25 rational interpretation, the ALJ's decision should be upheld." *Andrews*, 53 F.3d at 1039-
26 40. Here, the ALJ navigating a voluminous record and set out a thorough and considered
27 opinion of Zamora's physical and psychological limitations.

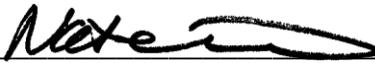
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1 **IV. CONCLUSION**

2 The Court finds that the ALJ did not commit legal error, and that her opinion was
3 supported by substantial evidence in the record. Thus, the Court DENIES Zamora's
4 motion for summary judgment and GRANTS the Commissioner's motion for summary
5 judgment.

6 **IT IS SO ORDERED.**

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8 Dated: December 14, 2015

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10 
11 NATHANAEL M. COUSINS
12 United States Magistrate Judge